

COMMENTS ON PROPOSED RULE
DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
10 CFR PART 490
ALTERNATIVE FUEL TRANSPORTATION PROGRAM
ALTERNATIVE COMPLIANCE
RIN 1904–AB66

The National Association of Fleet Administrators is pleased to provide comments on the Department of Energy’s Proposed Alternative Compliance Waiver option for fleets subject to the vehicle acquisition requirements under sections 501 and 507(o) of the Energy Policy Act of 1992.

NAFA is the association for professional automotive fleet management. Our 2,300 members manage fleets for a wide range of manufacturing, sales and service organizations, government entities, public service entities (law enforcement, educational institutions, utilities, etc.), financial institutions, insurance companies, non-profit organizations and the like.

The proposed Alternative Compliance Waiver option is of interest to those NAFA Members who manage fleets for State government entities and utility companies.

EPAct has been a challenge for covered fleets. The lack of fueling infrastructure and limited availability of AFVs have made it difficult for fleets to not only meet the compliance requirements but to contribute to reducing the use of petroleum in transportation.

The Alternative Compliance Option offers some real possibilities for covered fleets to achieve real, verifiable reductions in petroleum use. The proposal provides flexibility and endless possibilities. Covered fleets will have the option to consider hybrids, increase the use of biofuels, acquire medium and heavy-duty AFVs, adopt vehicle replacement policies that encourage the use of more fuel efficient vehicles, and other meaningful strategies.

RECOMMENDATIONS

NAFA offers the following recommendations for DOE’s consideration.

1. **Deadline** – As proposed, a covered fleet would have to submit a waiver request no later than March 31 prior to the year for which the waiver is requested. This deadline is too early, since the vehicle manufacturers typically do not reveal product offerings and pricing for the next model year until mid-Summer. NAFA suggests a two step process: by March 31 a covered fleet would submit a nonbinding notice of intent to seek a waiver request, which would include a tentative overview of petroleum

reduction measures; and by August 1 the covered fleet would submit the final waiver request. As envisioned, this two-step process will allow DOE to begin reviewing the waiver request by March 31, with final review after August 1.

2. **Baseline** – The proposal requires the covered fleet to include its “inventory of alternative fueled vehicles.” We recommend that this be changed to read:

“Inventory of alternative fueled vehicles acquired for EPOact compliance and included in prior Annual AFV Acquisition Report for State and Alternative Fuel Provider Fleets (Form DOE/FCVT/101).”

This modification clarifies that the “inventory” is limited to EPOact-acquired AFVs and does not include other AFVs that may be in the fleet for other purposes. For example, many covered fleets have flexible fueled E85 vehicles in use – not for EPOact compliance but because these vehicles are commonly available. If a fleet has to include these non-EPOact AFVs, it may make use of the Alternative Compliance Waiver option problematic.

This recommendation is also consistent with the statutory requirements in 42 U.S.C. 13264.

- For fuel providers, the statutory requirement is those vehicles subject to the “fuel use requirements of section 501.” Therefore, an AFV that is not covered by the fuel use requirement would not appear to be part of the inventory when calculating the petroleum reduction.
 - In the case of a State entity, the statutory requirement is “the cumulative alternative fuel vehicles of the State entity given credit under section 508.” Therefore vehicles not given credit under section 508 would not appear to be part of the “inventory.”
3. **Total Petroleum Use** – As proposed, a covered fleet would be required to provide information on total petroleum use by its entire light-duty fleet in the waiver request and as part of the annual report. We recommend that DOE remove this requirement. First, there is no statutory requirement in PL 109-58 for a fleet to provide this information. Second, collection of such data would be burdensome, if not problematic for many covered fleets. Not every fleet has the ability to capture petroleum use by its light-duty fleet, and in some instances such information may be proprietary.
 4. **Vehicles Included** – The proposal at Section 490.803(d) (iii) (2) states that the waiver request must provide for reduction of petroleum motor fuel by the covered fleet’s “own vehicles.” The word “own” could be interpreted to preclude leased vehicles. We recommend that clarification be provided in this section by adding the words found elsewhere in the notice referring to vehicles “owned, operated, leased or

otherwise controlled by the covered person” as eligible for planned petroleum reduction.

5. **Fork trucks and other off road vehicles** – We recommend that the waiver request include petroleum reductions from fork trucks and other off-road vehicles. These vehicles will often share the same refueling infrastructure (CNG, propane, biodiesel) used by other vehicles covered by the waiver request. Including them would result in increased waiver use and thus result in greater substitution of alternative fuels for petroleum. These vehicles will further the intent of the Energy Policy Act of 1992 – “promote the replacement of petroleum replacement fuels with replacement fuels to the maximum extent practicable.” (42 USC 13252)

Thank you for your consideration of these comments.